REMARKS

This Application has been carefully reviewed in light of the Office Action mailed December 19, 2008. At the time of the Office Action, Claims 39-62 were pending in this Application. Claims 39-62 were rejected. Claims 39, 43, 49, and 53 have been amended to further define various features of Applicants' invention. Claims 1-38 were previously cancelled without prejudice. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 102

Claims 39-42, 44-52, and 54-62 stand rejected by the Examiner under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0193967 by Gregg Fenton *et al.* ("*Fenton*").

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "the identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the cited art cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present claims.

Applicants have amended independent Claims 39 and 49 and respectfully submit that *Fenton* does not anticipate the present claims. For example, *Fenton* does not teach at least the following features of amended independent Claim 39:

> wherein the message contains at least a first header field which includes a reference to a specific network element of the first message service provider which was involved in processing the message.

Specifically, *Fenton* does not teach a header field which includes a reference to *a specific network element*, which was involved in processing the message. Instead, *Fenton* discusses headers identifying the originating and destination *user agents*, e.g., at paragraphs

[0053] and [0070]. The identifying an originating or destination user agent does not *reference a specific network element involved in processing the message*. In contrast, the claimed reference to *a specific network element* enables direct access to that network element at a subsequent point in time to, for example, recall or update the message or message parameters or to complete the accounting for a reply chargeback. *See, e.g.*, Applicants' Specification at [0048], [0036] and [0040].

As another example, Fenton does not teach at least the following features of amended independent Claim 49:

> wherein the message contains at least a first header field which includes a reference to a specific network element of the first message service provider which was involved in processing the message.

Therefore, Applicants respectfully request reconsideration and allowance of amended independent Claims 39 and 49; and Claims 38–48 and 50–62, which depend from Claims 39 and 49, respectively.

Rejections under 35 U.S.C. § 103

Claims 39, 43, 49, and 53 stand rejected by the Examiner under 35 U.S.C. § 103 by the combination of *Fenton*, *RFC 822*, and Srivastava et al., U.S. Patent No. 6,374,292 ("*Srivastava*") (together, "the proposed *Fenton-RFC822-Srivastava* combination").

Applicants' present disclosure teaches a method and system for the transmission of messages in a multimedia messaging service environment with two network elements, i.e., a Multimedia Message Service (MMS) relay/server, each residing within a different MMS provider. The network element enables a MMS provider to dynamically expand its network architecture/capabilities at any time by adding new network elements from different manufacturers or with different functional capabilities while ensuring that a given service will be performed only on a network element that supports that service. To achieve this capability, a message transferred from the network element of a first provider to a network element of a second provider includes a header field, which includes a reference to at least

one network element of the first MMS provider wherein the at least one referenced network element was involved in processing the message.

With this onboard information, the original message and any corresponding return messages (or otherwise associated messages) may be processed by the same network element involved in processing the original message. This ensures that the network element processing any return/associated messages supports the required functions need to process those messages and ensures that any requisite state retained from processing the original message is available when processing any return/associated messages. Note that it may not always be necessary for any return/associated messages to be processed on the same network element as that which processed the original message, but in some circumstances (e.g., for some implementations of a reply-charging service) this may indeed be necessary or beneficial.

Applicants have amended independent Claims 39 and 49 and respectfully submit that the proposed *Fenton-RFC822-Srivastava* combination does not render obvious the present claims. For example, the proposed *Fenton-RFC822-Srivastava* combination does not teach or suggest at least the following features of amended independent Claim 39:

> wherein the message contains at least a first header field which includes a reference to a specific network element of the first message service provider which was involved in processing the message.

As discussed above, *Fenton*, alone, fails to teach or suggest a header field which includes a reference to *a specific network element*, which was involved in processing the message. Further, *RFC 822* and *Srivastava*, alone or in the proposed *Fenton-RFC822-Srivastava* combination, fail to provide this teaching or suggestion. The Examiner correctly points out that *RFC 822* and *Srivastava* discuss the inclusion of a "return-path." However, a "return-path" does not reference *a specific network element* as required by independent Claim 39. The return-path of *RFC 822*, *Srivastava*, and the present disclosure may identify each device on the network through which a message as passed, but will not specifically identify any device as a *specific network element . . . involved in processing the message.*

Further, as explained in paragraph [0042] of Applicants' Specification, the service provider for the recipient of the message may not be able to interpret the reference to the specific network element of the first message service provider. This is in stark contrast with the teaching and purpose of the return-path of *RFC 822* and *Srivastava*, which is added just before final delivery and enables the recipient "to trace the routing path taken by the message if a problem occurs." *Srivastava*, col. 7, ll.2–4. The return-path of *RFC 822* and *Srivastava* is only used by the final transport system and not by one of the network elements (e.g., the MMS relay/server using the MM4 interface for the transmission of messages).

The disclosure of *Fenton*, which references *RFC 822* in paragraph [0033], simply discusses the use of email addresses to address the recipient of a multimedia message. Paragraph [0034] of *Fenton* expands that discussion to include routable recipient addresses. RFC 822 does discuss adding a "return-path" field to a message, but this is added by the *final transport system* that delivers the message to the recipient. The field is indented to contain definitive information about the address and route back to the message's originator. While the "reply-to" field provides an address back to the originator of the message, the "return-path" field provides an undifferentiated, step-by-step trace of all intermediate network nodes involved with routing or processing the message.

Thus, it should be clear that the "return-path" issue has nothing to do with independent Claim 39 (and, likewise, independent Claim 49). The "return-path" field is only used by the final transport system and not by one of the network elements (i.e., the MMS relay/server) using the MM4 interface for the transmission of messages in the MMS context.

The "return-path" issue has only been concerned with the MM1 interface of the multimedia messaging service environment comprising two network elements. Therefore, the teachings of *Fenton* and *RFC 822* would not teach or suggest to a person of ordinary skill in the art to include a header field of a message transferred from a first network element to a second network element, wherein the header field identifies the specific first network element that was involved in processing the message.

Moreover, *Srivastava* fails to supplement the proposed combination of *Fenton* and RFC 822 to provide such a teaching or suggestion. *Srivastava* also references *RFC 822* (at col. 6, *l.*56–col. 7, *l.*4) in discussing the "return-path" issue as part of the background on the Internet. In the cited paragraph, *Srivastava* states that the last transfer unit to accept the message and actually deliver the message to a message store adds a "return-path" header. This "return-path" header provides information that enables the recipient to trace the routing-path taken by the message if a problem occurs. Thus, the proposed *Fenton-RFC822-Srivastava* combination would not teach or suggest to a person of ordinary skill in the art to include a header field of a message transferred from a first network element to a second network element, wherein the header field identifies the specific first network element that was involved in processing the message.

As another example, the proposed *Fenton-RFC822-Srivastava* combination does not teach or suggest at least the following features of amended independent Claim 49:

> wherein the message contains at least a first header field which includes a reference to a specific network element of the first message service provider which was involved in processing the message.

Therefore, Applicants respectfully request reconsideration and allowance of amended independent Claims 39 and 49; and Claims 38–48 and 50–62, which depend from Claims 39 and 49, respectively.

CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants respectfully submit a Petition for a One Month Extension of Time. The Commissioner is authorized to charge the fee of $130 to Deposit Account No. 50-4871 of King & Spalding LLP in order to effectuate this filing. Applicant believes no other fees are due; however, should the Commissioner deem that any additional fees are due, including any fees for any additional extensions of time, the Commissioner is hereby authorized to debit said fees from deposit account number 50-4871.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.457-2030.

Respectfully submitted,
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